

**Introduced by Committee on Public Employment and
Retirement (Senators Soto (Chair), Karnette, and Scott)**

February 21, 2003

An act to amend Sections 22203.5, 22213, 22503, 22663, 22713, 22714, 22820, 22905, 23300, 24002, 24012, 24111, 24214, 24216.5, 24300, 24975, 25000.9, 25018.5, 25101, and 25940 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 627, as introduced, Committee on Public Employment and Retirement. State teachers' retirement.

(1) The State Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement System.

This bill would make technical, nonsubstantive changes to various provisions of that law.

(2) Existing law authorizes substitute teachers who perform creditable service, as defined, to elect membership in the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would extend this membership election to any substitute employee.

(3) Existing law permits a nonmember spouse to purchase additional service credit by paying the contributions and interest in one lump-sum payment or through monthly installment payments, not to exceed 60 installments.

This bill would instead permit payment in 120 monthly installments.

(4) Existing law permits a member of the State Teachers' Retirement System, other than a retired member, to purchase out-of-state service credit that is equivalent to the number of years of service credited to the member, not to exceed 10 years.

This bill would eliminate the limitation on the number of years of out-of-state service credit a member may purchase.

(5) Under the Defined Benefit Supplement Program, member and employer contributions are credited to the account of a member on July 1 of each year following a specified determination by the system.

This bill would instead require that specified contributions be credited to the account of a member upon receipt by the system.

(6) Until July 1, 2005, existing law exempts a member of the State Teachers' Retirement System who retired for service on or before January 1, 2000, from certain limitations on the amount of compensation the member may earn for performing certain creditable activities, including, but not limited to, directing classroom instruction.

This bill would provide this exemption to any member who retires on or before January 1, 2003. The bill would also extend the operation of these provisions to December 31, 2007.

(7) The Medicare Premium Payment Program provides for the payment of premiums associated with Medicare Part A for specified retired members of the State Teachers' Retirement System.

This bill would extend the payment of premiums to any person receiving a disability allowance, as specified.

(8) This bill would also make other related and conforming changes, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22203.5 of the Education Code is
2 amended to read:

3 22203.5. (a) All investment transaction decisions made
4 during a closed session, pursuant to paragraph (16) of subdivision
5 (c) of Section 11126 of the Government Code, shall be by rollcall
6 vote entered into the minutes of that meeting.

7 (b) The board, within 12 months of the close of an investment
8 transaction or the transfer of system assets for an investment
9 transaction, whichever occurs first, shall disclose and report the
10 investment at a public meeting.

11 SEC. 2. Section 22213 of the Education Code is amended to
12 read:



1 22213. The board shall regulate the duties of employers ~~and~~,
2 employing agencies, and other public authorities, imposed upon
3 them by this part, and shall require reports from employers,
4 employing agencies and other public authorities, as it deems
5 advisable in connection with the performance of its duties.

6 SEC. 3. Section 22503 of the Education Code is amended to
7 read:

8 22503. (a) Any person employed to perform creditable
9 service as a substitute ~~teacher~~ *employee* who is not already a
10 member of the Defined Benefit Program ~~shall become~~ *is* a member
11 as of the first day of the pay period following the pay period in
12 which the person performed 100 or more complete days of
13 creditable service during the school year in one school district,
14 community college district, or county superintendent's office,
15 unless excluded from membership pursuant to Section 22601.

16 (b) This section ~~shall~~ *does* not apply to persons who are
17 employed by employers who provide benefits for their employees
18 under Part 14 (commencing with Section 26000).

19 (c) This section ~~shall be~~ *is* deemed to have become operative on
20 July 1, 1996.

21 SEC. 4. Section 22663 of the Education Code is amended to
22 read:

23 22663. The nonmember spouse who is awarded a separate
24 account under this part ~~shall have~~ *has* the right to purchase
25 additional service credit in accordance with the determination of
26 the court pursuant to Section 22652.

27 (a) The nonmember spouse may purchase only the service
28 credit that the court, pursuant to Section 22652, has determined to
29 be the community property interest of the nonmember spouse.

30 (b) The nonmember spouse shall inform the system in writing
31 of his or her intent to purchase additional service credit within 180
32 days after the date the judgment or court order addressing the right
33 of the nonmember spouse to purchase additional service credit is
34 entered. The nonmember spouse shall elect to purchase additional
35 service credit on a form provided by the system within 30 days
36 after the system mails an election form and billing.

37 (c) If the nonmember spouse elects to purchase additional
38 service credit, he or she shall pay, prior to retirement under this
39 part, all contributions with respect to the additional service at the
40 contribution rate for additional service credit in effect at the time

1 of election and regular interest from July 1 of the year following
2 the year upon which contributions are based.

3 (1) (A) The nonmember spouse shall purchase additional
4 service credit by paying the required contributions and interest in
5 one lump sum, or in not more than ~~60~~ 120 monthly installments,
6 provided that no installment, except the final installment, ~~shall be~~
7 *is* less than twenty-five dollars (\$25). Regular interest shall be
8 charged on the monthly, unpaid balance if the nonmember spouse
9 pays in installments.

10 (B) If any payment due, because of the election, is not received
11 at the system's office in Sacramento within 120 days of its due
12 date, the election shall be canceled and any payments made under
13 the election shall be returned to the nonmember spouse.

14 (2) The contributions shall be based on the member's
15 compensation earnable in the most recent school year during
16 which the member was employed, preceding the date of separation
17 established by the court pursuant to Section 22652.

18 (3) All payments of contributions and interest shall be received
19 by the system before the effective date of the retirement of the
20 nonmember.

21 (d) The nonmember spouse ~~shall~~ *may* not have a right to
22 purchase additional service credit under this part after the effective
23 date of a refund of the accumulated retirement contributions in the
24 separate account of the nonmember spouse.

25 (e) The member ~~shall~~ *may* not have a right to purchase the
26 community property interest of the nonmember spouse of
27 additional service credit under this part whether or not the
28 nonmember spouse elects to purchase the additional service credit.
29 However, any additional service credit eligible for purchase that
30 is not explicitly awarded to the nonmember spouse by the
31 judgment or court order shall be deemed the exclusive property of
32 the member.

33 SEC. 5. Section 22713 of the Education Code is amended to
34 read:

35 22713. (a) Notwithstanding any other provision of this
36 chapter, the governing board of a school district or a community
37 college district or a county superintendent of schools may establish
38 regulations that allow an employee who is a member of the
39 Defined Benefit Program to reduce his or her workload from full
40 time to part time, and receive the service credit the member would

1 have received if the member had been employed on a full-time
2 basis and have his or her retirement allowance, as well as other
3 benefits that the member is entitled to under this part, based, in
4 part, on final compensation determined from the compensation
5 earnable the member would have been entitled to if the member
6 had been employed on a full-time basis.

7 (b) The regulations shall include, but may not be limited to, the
8 following:

9 (1) The option to reduce the member's workload shall be
10 exercised at the request of the member and may be revoked only
11 with the mutual consent of the employer and the member.

12 (2) The member shall have been employed ~~full-time~~ to perform
13 creditable service subject to coverage under the Defined Benefit
14 Program ~~for at least and have a minimum of 10 years of credited~~
15 ~~service, including five years of credited service for full-time~~
16 ~~employment immediately preceding the reduction in workload~~
17 ~~and have a minimum of 10 years of credited service.~~

18 (3) The member may not have had a break in service during the
19 five years immediately preceding the reduction in workload. For
20 purposes of this subdivision, sabbaticals and other approved
21 leaves of absence may not constitute a break in service. For
22 purposes of this subdivision, the period of time during which a
23 member is retired for service shall constitute a break in service and
24 a member who reinstates from retirement shall be required to
25 perform at least five years of full-time creditable service
26 immediately preceding the reduction in workload.

27 (4) The member shall have reached the age of 55 years prior to
28 the reduction in workload.

29 (5) The reduced workload shall be performed for a period of
30 time, as specified in the regulations, up to and including 10 years.
31 The period of time specified in the regulations may not exceed 10
32 years.

33 (6) The reduced workload shall be equal to at least one-half of
34 the full-time equivalent required by the member's contract of
35 employment during his or her final year of full-time employment.

36 (7) The member shall be paid creditable compensation that is
37 the pro rata share of the creditable compensation the member
38 would have been paid had the member not reduced his or her
39 workload.

1 (c) Prior to the reduction of a member's workload under this
2 section, the employer in conjunction with the administrative staff
3 of the State Teachers' Retirement System and the Public
4 Employees' Retirement System, shall verify the member's
5 eligibility for the reduced workload program.

6 (d) The member shall make contributions to the Teachers'
7 Retirement Fund in the amount that the member would have
8 contributed had the member performed creditable service on a
9 full-time basis subject to coverage under the Defined Benefit
10 Program.

11 (e) The employer shall contribute to the Teachers' Retirement
12 Fund at a rate adopted by the board as a plan amendment with
13 respect to the Defined Benefit Program an amount based upon the
14 creditable compensation that would have been paid to the member
15 had the member performed creditable service on a full-time basis
16 subject to coverage under the Defined Benefit Program.

17 (f) The employer shall maintain the necessary records to
18 separately identify each member who participates in the reduced
19 workload program pursuant to this section.

20 SEC. 6. Section 22714 of the Education Code is amended to
21 read:

22 22714. (a) Whenever the governing board of a school district
23 or a community college district or a county office of education, by
24 formal action taken prior to January 1, 1999, determines, pursuant
25 to Section 44929 or 87488, that because of impending curtailment
26 of or changes in the manner of performing services, the best
27 interests of the district or county office of education would be
28 served by encouraging certificated employees or academic
29 employees to retire for service and that the retirement will either:
30 result in a net savings to the district or county office of education;
31 result in a reduction of the number of certificated employees or
32 academic employees as a result of declining enrollment; or result
33 in the retention of certificated employees who are credentialed to
34 teach in, or faculty who are qualified to teach in, teacher shortage
35 disciplines, including, but not limited to, mathematics and science,
36 an additional two years of service credit shall be granted under this
37 part to a member of the Defined Benefit Program if all of the
38 following conditions exist:

39 (1) The member is credited with five or more years of service
40 credit and retires for service under the provisions of Chapter 27

(commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner, and time period not to exceed four years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

(3) The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(4) The employer has considered the availability of teachers or academic employees to fill the positions that would be vacated pursuant to this section.

(b) (1) The school district shall demonstrate and certify to the county superintendent that the formal action taken would result in ~~either any of the following: (A)-a~~

(A) A net savings to the district; ~~(B)-a.~~

(B) A reduction of the number of certificated employees as a result of declining enrollment, as computed pursuant to Section 42238.5; ~~or (C)-the.~~

(C) The retention of certificated employees who are credentialed to teach in teacher shortage disciplines.

(2) The county superintendent shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to,

1 the information specified in subdivision (b) of Section 14502. A
2 district that qualifies under subparagraph (B) of paragraph (1)
3 shall also certify that it qualifies as a declining enrollment district
4 as computed pursuant to Section 42238.5.

5 (3) The school district shall reimburse the county
6 superintendent for all costs to the county superintendent that result
7 from the certification.

8 (c) (1) The county office of education shall demonstrate and
9 certify to the Superintendent of Public Instruction that the formal
10 action taken would result in ~~either: (A) a~~ *any of the following:*

11 (A) A net savings to the county office of education; ~~(B) a~~.

12 (B) A reduction of the number of certificated employees as a
13 result of declining enrollment; ~~or (C) the~~.

14 (C) *The* retention of certificated employees who are
15 credentialed to teach in teacher shortage disciplines.

16 (2) The Superintendent of Public Instruction shall certify to the
17 Teachers' Retirement Board that a result specified in paragraph (1)
18 can be demonstrated. The certification shall include, but not be
19 limited to, the information specified in subdivision (b) of Section
20 14502.

21 (3) The Superintendent of Public Instruction may request
22 reimbursement from the county office of education for all
23 administrative costs that result from the certification.

24 (d) (1) The community college district shall demonstrate and
25 certify to the chancellor's office that the formal action taken would
26 result in ~~either: (A) a~~ *any of the following:*

27 (A) A net savings to the district; ~~(B) a~~.

28 (B) A reduction in the number of academic employees as a
29 result of declining enrollment, as computed pursuant to
30 subdivision (c) of Section 84701; ~~or (C) the~~.

31 (C) *The* retention of faculty who are qualified to teach in
32 teacher shortage disciplines.

33 (2) The chancellor shall certify to the Teachers' Retirement
34 Board that a result specified in paragraph (1) can be demonstrated.
35 The certification shall include, but not be limited to, the
36 information specified in subdivision (c) of Section 84040.5. A
37 community college district that qualifies under subparagraph (B)
38 of paragraph (1) of subdivision (b) of this section shall also certify
39 that it qualifies as a declining enrollment district as computed
40 pursuant to subdivision (c) of Section 84701.

(3) The chancellor may request reimbursement from the community college for all administrative costs that result from the certification.

(e) The opportunity to be granted service credit pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member of the Defined Benefit Program who retires under this part for service under the provisions of Chapter 27 (commencing with Section 24201) with service credit granted under this section and who subsequently reinstates shall forfeit the service credit granted under this section.

(h) This section ~~shall not be applicable~~ *does not apply* to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the formal action, or if the member is not otherwise eligible to retire for service.

SEC. 7. Section 22820 of the Education Code is amended to read:

22820. (a) A member, other than a retired member, may elect to purchase out-of-state service credited in a public retirement system for service covering public education in another state or territory of the United States or by the United States for its citizens. ~~In no event shall the~~ *The member may not* receive credit for this service if the member has credit or is eligible to receive credit for the same service in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

(b) The amount of out-of-state service for which a member may purchase credit may not exceed the number of years of service credited to the member in the out-of-state retirement system ~~or 10 years, whichever is less.~~

(c) Out-of-state service credit may be purchased under this section by means of any of the following actions:

(1) Paying an amount equal to the amount refunded from the other public retirement system and receiving service credit under the Defined Benefit Program pursuant to subdivision (a) of Section 22823.

(2) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(d) Compensation for out-of-state service ~~shall~~ may not be used in determining the highest average annual compensation earnable when calculating final compensation.

(e) The service credit purchased under this section ~~shall~~ may not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 8. Section 22905 of the Education Code, as amended by Section 8 of Chapter 375 of the Statutes of 2002, is amended to read:

22905. (a) Member contributions pursuant to Section 22901, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Member and employer contributions on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year.

(2) Compensation that is consistent with subdivision (b) of Section 22119.2.

(3) Compensation that is payable for a specified number of times as limited by law, a collective bargaining agreement, or an employment agreement.

(c) A member ~~shall~~ may not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program, except as provided in subdivision (d), nor ~~shall~~ may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Member and employer contributions *pursuant to paragraph (1) of subdivision (b)* under the Defined Benefit

Supplement Program shall be credited to the accounts of members as of July 1 each year following a determination by the system under the provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. *Any other contributions under the Defined Benefit Supplement Program pursuant to paragraph (2) or (3) of subdivision (b), shall be credited to the individual account of the member upon receipt by the system.* Contributions to a member's Defined Benefit Supplement account shall be identified separately from the member's contributions credited under the Defined Benefit Program.

(e) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

SEC. 9. Section 23300 of the Education Code is amended to read:

23300. (a) A member of the Defined Benefit Program may designate a beneficiary to receive benefits payable under this part upon the member's death. A beneficiary designation may not be made in derogation of a ~~nonmember spouse's~~ community property interest *of a nonmember spouse, as defined by Section 25000.9,* with respect to service or contributions credited under this part, unless the nonmember spouse has previously obtained an alternative order pursuant to Section 2610 of the Family Code.

(b) A member's beneficiary designation for benefits payable under the Defined Benefit Program, including a designation made pursuant to Section 24300, shall also apply to benefits payable under the Defined Benefit Supplement Program. A beneficiary designation shall be in writing on a form prescribed by the system, executed by the member, and witnessed by two witnesses who are not designated as a beneficiary for benefits payable under either the Defined Benefit Program or the Defined Benefit Supplement Program.

(c) A beneficiary designation ~~shall~~ *may* not be valid unless it is received in the office of the system in Sacramento prior to the member's death.

(d) A member may change or revoke a beneficiary designation at any time by making a new designation pursuant to this section.

1 (e) This section ~~shall~~ *may* not be applicable to the designation
2 of an option beneficiary or an annuity beneficiary under this part.

3 (f) An option beneficiary may designate a death beneficiary
4 who would, upon the death of the option beneficiary, be entitled
5 to receive the option beneficiary's accrued monthly allowance.

6 SEC. 10. Section 24002 of the Education Code is amended to
7 read:

8 24002. The board may authorize payment of a disability
9 allowance to any member who is qualified upon application under
10 this part by the member, the member's guardian or conservator, or
11 the member's employer, if the application is made during any one
12 of the following periods:

13 (a) While the member is employed or on a compensated leave
14 of absence.

15 (b) While the member is physically or mentally incapacitated
16 for performance of service and the incapacity has been continuous
17 from the last day of actual performance of service for which
18 compensation is payable to the member.

19 (c) While the member is on a leave of absence without
20 compensation, granted for reason other than mental or physical
21 incapacity for performance of service, and within four months
22 after the last day of actual performance of service for which
23 compensation is payable to the member, or within 12 months of
24 that date if the member is on an employer-approved leave to study
25 at an approved college or university.

26 (d) Within four months after the termination of the member's
27 employment subject to coverage under the Defined Benefit
28 Program, if the application was not made under subdivision (b)
29 and was not made more than four months after the last day of actual
30 performance of service for which compensation is payable to the
31 member.

32 (e) A member, with a dependent child, who becomes disabled
33 prior to normal retirement age, and whose sick leave will extend
34 beyond normal retirement age, may be awarded a disability
35 allowance with an effective date after normal retirement age, if *the*
36 application is filed prior to attaining normal retirement age.

37 (f) The member is not applying for a disability allowance
38 because of a physical or mental condition that existed at the time
39 the most recent membership in the Defined Benefit Program



1 commenced and which remains substantially unchanged at the
2 time of application.

3 SEC. 11. Section 24012 of the Education Code is amended to
4 read:

5 24012. (a) A member who is receiving a disability allowance
6 pursuant to this chapter who is determined by the board to have a
7 mental, physical, or vocational rehabilitation potential that could
8 be expected to restore the member's ability to perform service in
9 the member's former position of employment or a comparable
10 level position shall participate in an appropriate rehabilitation
11 program approved by the board. The board shall pay all reasonable
12 costs of the approved program. Willful failure to initiate and
13 continue participation in the rehabilitation program shall cause the
14 disability allowance to be terminated. In determining whether a
15 member has good cause for failure to participate in the program,
16 the board shall take into account whether the participation would
17 abridge the member's right to the free exercise of religion or
18 whether the member's physical or mental condition has worsened,
19 as determined by the member's treating physician and
20 substantiated by medical evidence.

21 (b) Any cost for the approved rehabilitation program
22 prescribed by the board shall be paid directly by the system from
23 the fund.

24 SEC. 12. Section 24111 of the Education Code is amended to
25 read:

26 24111. (a) A member who is receiving a disability retirement
27 allowance under this part pursuant to this chapter who is
28 determined by the board to have a mental, physical, or vocational
29 rehabilitation potential that could be expected to restore the
30 member's ability to perform service in the member's former
31 position of employment or in a comparable level position shall
32 participate in an appropriate rehabilitation program approved by
33 the board. The board shall pay all reasonable costs of the approved
34 program. Willful failure to initiate and continue participation in
35 the rehabilitation program shall cause the disability retirement
36 allowance under this part to be terminated. In determining whether
37 a member has good cause for failure to participate in the program,
38 the board shall take into account whether the participation would
39 abridge the member's right to the free exercise of religion or
40 whether the member's physical or mental condition has worsened

1 as determined by the member's treating physician and
2 substantiated by medical evidence.

3 (b) Any cost for the approved rehabilitation program
4 prescribed by the board shall be paid directly by the system from
5 the fund.

6 SEC. 13. Section 24214 of the Education Code, as amended
7 by Section 3 of Chapter 903 of the Statutes of 2002, is amended
8 to read:

9 24214. (a) A member retired for service under this part may
10 perform the activities identified in paragraphs (1) to (9), inclusive,
11 of subdivision (a), or subdivision (b), of Section 22119.5 as an
12 employee of an employer, as an employee of a third party, or as an
13 independent contractor within the California public school
14 system, but the member may not make contributions to the
15 retirement fund or accrue service credit based on compensation
16 earned from that service.

17 (b) The rate of pay for service performed by a member retired
18 for service under this part as an employee of the employer may not
19 be less than the minimum, nor exceed that paid by the employer
20 to other employees performing comparable duties.

21 (c) A member retired for service under this part may not be
22 required to reinstate for performing the activities identified in
23 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision
24 (b), of Section 22119.5, as an employee of an employer, as an
25 employee of a third party, or as an independent contractor within
26 the California public school system.

27 (d) A member retired for service under this part may earn
28 compensation for performing activities identified in paragraphs
29 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
30 Section 22119.5 in any one school year up to the limitation
31 specified in subdivision (f) as an employee of an employer, as an
32 employee of a third party, or an independent contractor, within the
33 California public school system, without a reduction in his or her
34 retirement allowance.

35 (e) The postretirement compensation limitation provisions set
36 forth in this section are not applicable to compensation earned for
37 the performance of the activities described in subdivision (a) for
38 which the employer is not eligible to receive state apportionment
39 or to compensation that is not creditable pursuant to Section
40 22119.2.



(f) The limitation that shall apply to the compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor, shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) multiplied by the *percentage increase in the* average earnable salary of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member’s retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, ~~shall be~~ is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on January 1, 2008.

SEC. 14. Section 24216.5 of the Education Code is amended to read:

24216.5. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, ~~2000~~ 2003.

(2) The member retired for service is employed by a school district to provide any of the following:

(A) Direct classroom instruction to pupils enrolled in kindergarten or any grades 1 to 12, inclusive.

1 (B) Support and assessment for new teachers through the
2 Beginning Teacher Support and Assessment program authorized
3 by Section 44279.1.

4 (C) Support to individuals completing student teaching
5 assignments.

6 (D) Support to individuals participating in the following
7 programs:

8 (i) Pre-Internship Teaching Program authorized pursuant to
9 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
10 25.

11 (ii) Alternative certification programs authorized pursuant to
12 Article 11 (commencing with Section 44380) of Chapter 2 of Part
13 25.

14 (iii) School Paraprofessional Teacher Training Program
15 established pursuant to Article 12 (commencing with Section
16 44390) of Chapter 2 of Part 25.

17 (3) All members retired for service whose employment with a
18 school district meets the conditions specified in this section shall
19 be treated as a distinct class of temporary employees within the
20 existing bargaining unit whose service shall not be included in
21 computing the service required as a prerequisite to attainment of
22 or eligibility for classification as a permanent employee of a school
23 district. The compensation for service performed by this class of
24 employees shall be established in accordance with subdivision (b)
25 of Section 24214 and agreed to in the collective bargaining
26 agreement between the employing school district and the
27 exclusive representative for the existing bargaining unit within
28 which these temporary employees of the school district are treated
29 as a distinct class.

30 (4) The employing school district submits documentation
31 required by the system to substantiate the eligibility of the
32 temporary employment of a member retired for service for the
33 exemption under this subdivision.

34 (b) A school district that employs a member retired for service
35 pursuant to this section shall maintain accurate records of the
36 retired member's compensation earned and shall report that
37 compensation monthly to the system regardless of the method of
38 payment or the source of funds from which the compensation is
39 paid.



1 (c) This section shall not apply to the compensation earned for
2 creditable service performed by a member retired for service for
3 a community college district.

4 (d) The amendments made to this section by an act enacted in
5 the second year of the 1999–2000 Regular Session shall apply to
6 the 2000–01 school year and all subsequent school years.

7 (e) This section shall remain in effect only until ~~July 1, 2005~~
8 *December 31, 2007*, and as of that date is repealed unless a later
9 enacted statute which is enacted before ~~July 1, 2005~~ *December 31,*
10 *2007*, deletes or extends that date.

11 SEC. 15. Section 24300 of the Education Code is amended to
12 read:

13 24300. (a) A member may, prior to the effective date of the
14 member's retirement, elect an option pursuant to this part; that
15 would provide an actuarially modified retirement allowance
16 payable throughout the life of the member and the member's
17 option beneficiary, as follows:

18 (1) Option 2. The modified retirement allowance shall be
19 paid to the retired member. Upon the retired member's death, an
20 allowance equal to the modified amount that the retired member
21 was receiving shall be paid to the option beneficiary.

22 (2) Option 3. The modified retirement allowance shall be
23 paid to the retired member. Upon the retired member's death, an
24 allowance equal to one-half of the modified amount that the retired
25 member was receiving shall be paid to the option beneficiary.

26 (3) Option 4. The modified retirement allowance shall be
27 paid to the retired member as long as both the retired member and
28 the option beneficiary are living. Upon the death of either the
29 retired member or the option beneficiary, an allowance equal to
30 two-thirds of the modified amount that the retired member was
31 receiving shall be paid to the surviving retired member or the
32 surviving option beneficiary.

33 (4) Option 5. The modified retirement allowance shall be
34 paid to the retired member as long as both the retired member and
35 the option beneficiary are living. Upon the death of either the
36 retired member or the option beneficiary, an allowance equal to
37 one-half of the modified amount that the retired member was
38 receiving shall be paid to the surviving retired member or
39 surviving option beneficiary.

1 (5) Option 6. The modified retirement allowance shall be
2 paid to the retired member and upon the retired member's death,
3 an allowance equal to the modified amount that the retired member
4 was receiving shall be paid to the option beneficiary. However, if
5 the option beneficiary predeceases the retired member, the
6 retirement allowance without modification for the option shall be
7 payable to the retired member. If the option beneficiary
8 predeceases the retired member, the retired member may designate
9 a new option beneficiary. The effective date of the new designation
10 shall be six months following the date notification is received by
11 the board, so long as both the retired member and the designated
12 option beneficiary are then living. Notification shall be on a
13 properly executed form for the new designation. The selection of
14 the new option beneficiary under this subdivision is subject to an
15 actuarial modification of the unmodified retirement allowance. A
16 retired member may not designate any new option beneficiary that
17 would result in any additional liability to the fund.

18 (6) Option 7. The modified retirement allowance shall be
19 paid to the retired member and upon the retired member's death,
20 an allowance equal to one-half of the modified amount the retired
21 member was receiving shall be paid to the option beneficiary.
22 However, if the option beneficiary predeceases the retired
23 member, the retirement allowance without modification for the
24 option shall be payable to the retired member. If the option
25 beneficiary predeceases the retired member, the retired member
26 may designate a new option beneficiary. The effective date of the
27 new designation shall be six months following the date notification
28 is received by the board, provided both the retired member and the
29 designated option beneficiary are then living. Notification shall be
30 on a properly executed form for the new designation. The selection
31 of the new option beneficiary under this subdivision is subject to
32 an actuarial modification of the unmodified retirement allowance.
33 A retired member may not designate any new option beneficiary
34 that would result in any additional liability to the fund.

35 (7) Option 8. (A) Any member, prior to the effective date of
36 the member's retirement, may designate multiple option
37 beneficiaries. The member who has designated more than one
38 option beneficiary shall select an option that the member is
39 authorized to elect subject to subdivision (e) for each beneficiary
40 designated that would provide an actuarially modified retirement



1 allowance payable throughout the lives of the member and the
2 member's option beneficiaries.

3 (B) The modified retirement allowance shall be paid to the
4 retired member as long as the retired member and at least one of
5 the option beneficiaries are living. Upon the retired member's
6 death, an allowance shall be paid to each surviving option
7 beneficiary in accordance with the option elected respective to that
8 beneficiary. However, if one or more of the option beneficiaries
9 predeceases the retired member, the retired member's allowance
10 shall be adjusted in accordance with the option elected for the
11 deceased beneficiary. The member shall determine the percentage
12 of the unmodified allowance that will be modified by the election
13 of Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7
14 under this option, the aggregate of which may not exceed 100
15 percent of the member's unmodified allowance. The election of
16 this option is subject to approval by the board.

17 (b) For purposes of this section, the member shall designate an
18 option beneficiary on a form prescribed by the system, which shall
19 be duly executed and filed with the system at the time of the
20 member's retirement.

21 (c) A member may revoke or change an election of an option
22 at any time prior to the effective date of the member's retirement
23 under this part.

24 (d) On or before July 1, 2004, the board shall evaluate the
25 existing options and annuities provided pursuant to this section,
26 Chapter 38 (commencing with Section 25000) of this part, and Part
27 14 (commencing with Section 26000) and adopt, as a plan
28 amendment, any appropriate changes to the options and annuities
29 based on the needs of members, participants, and their
30 beneficiaries, including, but not limited to, providing economic
31 security for beneficiaries and reducing complexity in the selection
32 of options and annuities by members and participants. The
33 changes to the options and annuities may have no net actuarial
34 impact on the retirement fund, and the board may establish any
35 eligibility criteria it deems necessary to prevent an adverse
36 actuarial impact to the fund. The board shall designate the effective
37 date of the plan amendment, which shall be at least 18 months after
38 the amendment is adopted by the board, and notwithstanding any
39 other provision of this section, the options and annuities available
40 to members and participants eligible to retire pursuant to this part

1 *and Part 14 (commencing with Section 26000)*, after the effective
2 date of the plan amendment made pursuant to this subdivision,
3 shall reflect the changes adopted as a plan amendment pursuant to
4 this subdivision.

5 (e) Any member or participant who retired and elected an
6 option or a joint and survivor annuity, or who filed a preretirement
7 election of an option prior to the effective date of the plan
8 amendment made pursuant to subdivision (d), may elect to change
9 to a different option or joint and survivor annuity, as modified by
10 the board as a plan amendment pursuant to subdivision (d), if the
11 member or participant meets all the criteria established by the
12 board to prevent a change in an option or joint and survivor annuity
13 from having an adverse actuarial impact on the retirement fund,
14 including, but not limited to, the effective date of a new
15 designation or limitations on any changes if a member or
16 participant, as the case may be, or beneficiary, or both, is currently
17 not living or afflicted with a known terminal illness. The member
18 or participant shall designate the change during the six-month
19 period that begins with the effective date of the plan amendment,
20 on a form prescribed by the system. Any member changing an
21 option election pursuant to this subdivision is not subject to the
22 allowance reduction prescribed in Section 24309 or 24310 as a
23 result of the election. If a member or participant elects to change
24 his or her option or joint and survivor annuity under this
25 subdivision, the member or participant shall retain the same option
26 beneficiary or beneficiaries as named in the prior designation.

27 (f) The Legislature reserves the right to modify this section
28 prior to the effective date of the plan amendment made pursuant
29 to subdivision (d) to prevent any actuarial impact to the fund.

30 SEC. 16. Section 24975 of the Education Code is amended to
31 read:

32 24975. (a) The board may develop one or more deferred
33 compensation plans under Section 457 of the Internal Revenue
34 Code that an employer may choose to establish and offer to its
35 employees who are members *or participants* of the plan under this
36 part or Part 14 (commencing with Section 26000) or any employee
37 of a local public agency or political subdivision of this state that
38 employs persons to perform creditable service subject to coverage
39 by the plan under this part.



1 (b) If an employer adopts a deferred compensation plan
2 described in subdivision (a):

3 (1) The employer shall enter into a written contractual
4 arrangement with the system under which the system, or a
5 third-party administrator acting on behalf of the system, shall
6 provide investment, recordkeeping, and administrative services
7 for the deferred compensation plan.

8 (2) The initial period of the contractual arrangement described
9 in paragraph (1) shall be for a term of five years.

10 (3) The deferred compensation plan shall continue to constitute
11 a separate plan established and maintained by the adopting
12 employer.

13 (4) The system shall be treated as acting on behalf of the
14 employer in administering the deferred compensation plan.

15 (5) The terms and administration of the deferred compensation
16 plan shall be in accordance with the applicable provisions of
17 Section 457 of the Internal Revenue Code.

18 (6) In administering the deferred compensation plan on behalf
19 of the employer, the board shall have the same investment
20 authority and discretion and be subject to the same fiduciary
21 standards pursuant to Chapter 4 (commencing with Section
22 22250), with respect to amounts deferred under the deferred
23 compensation plan as applied by the system with respect to the
24 Teachers' Retirement Fund.

25 (c) If an employer establishes and maintains a deferred
26 compensation plan described in subdivision (a), the deferred
27 compensation plan shall be offered to all of its employees *who are*
28 *eligible to participate pursuant to this section*.

29 (d) An employee participating in a deferred compensation plan
30 established by an employer under this section shall enter into a
31 written agreement with the employer for the deferral of
32 compensation prior to the performance of the services to which
33 that compensation relates.

34 (e) If an employer chooses to establish and maintain a deferred
35 compensation plan described in subdivision (a) that is to be
36 administered by the system, the employer shall take all necessary
37 or appropriate action to implement this section in cooperation with
38 the system.

39 SEC. 17. Section 25000.9 of the Education Code is amended
40 to read:

25000.9. For purposes of this chapter *and Section 23300*, “nonmember spouse” means a member’s spouse or former spouse who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part. A nonmember spouse may not be considered a member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation or dissolution of marriage:

(a) A separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in the member’s retirement allowance under the Defined Benefit Program.

(b) A separate account based on the member’s Defined Benefit Supplement account balance, a retirement benefit, or an interest in the member’s retirement benefit under the Defined Benefit Supplement Program.

SEC. 18. Section 25018.5 of the Education Code is amended to read:

25018.5. When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former Defined Benefit Supplement disability benefit under this chapter shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of service for which compensation is payable to the member provided the member complies with the provisions of Section 24003 *or 24103, as applicable*.

SEC. 19. Section 25101 of the Education Code is amended to read:

25101. A prospective vendor of 403(b) products that offers those products, or the products of other 403(b) vendors, to local school districts, community college districts, county offices of education and their employees, shall register those products with the board pursuant to this chapter. Registered vendors shall offer only registered 403(b) products as funding vehicles for 403(b) plans.



(a) Prospective vendors shall be registered with the board based upon a complete response to the disclosures required by this subdivision. This information shall be included in the impartial investment information bank established pursuant to Section 25104. The prospective vendors shall provide the following information:

(1) A statement of experience in California and in other states in providing retirement annuities, custodial account mutual fund arrangements, or other retirement products and related financial services under public employer retirement plans.

(2) A characterization by the vendor of its offering as either an annuity or custodial account, as defined under Sections 403(b)(1) and 403(b)(7) of *the* Internal Revenue Code, respectively.

(3) A disclosure of all expenses paid directly or indirectly by retirement plan participants, including, but not limited to, penalties for early withdrawals, declining or fixed withdrawal charges, surrender or deposit charges, management fees, and annual fees, supported by documentation as required for prospectus disclosure by the National Association of Securities Dealers and the Securities and Exchange Commission. Vendors shall be required to provide information regarding the impact of product fees upon a hypothetical investment, as described in Section 25104.

(4) The types of products, product features, including presence of two tier annuity features, services offered to participants, and information about how to access product prospectuses or other relevant product information.

(5) A discussion of the ability, experience, and commitment of the vendor to provide retirement counseling and education services, including, but not limited to, access to group meetings and individual counseling by various means, including telephone and telecommunications devices for the deaf (TDD), Internet, and face-to-face consultations by registered representatives.

(6) A statement of the financial strength and stability of the vendor, as may be applicable, by identifying its ratings assigned by nationally recognized rating services that evaluate the financial strength of life insurance, mutual funds, and other similar companies.

(7) The location of offices and counselors, or method of distribution, of the vendor relative to serving local school districts,

1 community college districts, and county offices of education and
2 their employees in California.

3 (8) A description of the ability of the vendor to comply with all
4 applicable provisions of federal and state law governing
5 retirement plans, including minimum distribution requirements
6 and contribution limits.

7 (9) To the extent applicable, the demonstrated ability of the
8 vendor to offer an appropriate array of accumulation funding
9 options, including, but not limited to, a diversified mix of value,
10 growth, growth and income, hybrid and index funds or accounts
11 across large, mid, and small capitalization asset classes, both
12 domestic and international. These investment products may
13 include mutual funds, group or individual annuity contracts, fixed
14 or variable annuity contracts, individual retirement annuities,
15 interests in trust and collective trusts, separate accounts, and other
16 financial instruments.

17 (10) A discussion of the range of administrative and customer
18 services provided, including asset allocation, accounting and
19 administration of benefits for individual participants,
20 recordkeeping for individual participants, asset purchase, control,
21 and safekeeping, execution of a participant's instructions as to
22 asset and contribution allocation, calculation of daily net asset
23 values, direct access for participants to their account information,
24 periodic reporting to active participants, not less than quarterly, on
25 their account balances and transactions, and compliance with the
26 standard of care applicable in the provision of investment services
27 and consistent with federal law.

28 (11) Certification by the vendor that the information provided
29 to the board accurately reflects the provisions of the Section 403(b)
30 products they register pursuant to this chapter.

31 (b) Registration may not be conditioned upon the content of the
32 information.

33 (c) Vendors shall supply information and data in the format
34 required by the board.

35 SEC. 20. Section 25940 of the Education Code is amended to
36 read:

37 25940. (a) Effective July 1, 2001, the system shall pay to the
38 federal ~~Center~~ Centers for Medicare and Medicaid Services or a
39 successor agency the premiums associated with Medicare Part A
40 for retired *or disabled* members described in this section.



(b) This section shall apply only to a retired member of the Defined Benefit Program who: ~~(1) meets all of the following requirements:~~

(1) ~~The member~~ retired prior to January 1, 2001, ~~(2) or began receiving a disability allowance prior to January 1, 2001, and has been continually disabled since January 1, 2001.~~

(2) ~~The member~~ is not eligible for Medicare Part A without payment of a premium, ~~(3).~~

(3) ~~The member~~ is at least 65 years of age, ~~and (4).~~

(4) ~~The member~~ enrolled in Medicare Parts A and B.

(c) The board may extend eligibility for the payments described in this section to members of the Defined Benefit Program who meet the requirements of subdivision (d) and who retire ~~or begin receiving a disability allowance~~ on or after January 1, 2001, within a school year specified by the board, if the board finds that the cost of the payments for members ~~retiring who retire or begin receiving a disability allowance~~ during the specified school year may be paid within the anticipated resources available in the fund, as determined by the actuarial valuation of the program established by this chapter. Any extension of eligibility to members who retire ~~or begin receiving a disability allowance~~ on or after January 1, 2001, shall be provided equally to any member who meets the requirements of subdivision (d) and retires ~~or begins receiving a disability allowance~~ during the school year specified by the board.

(d) (1) Eligibility for the payments described in this section pursuant to subdivision (c) shall be limited to members of the Defined Benefit Program who ~~retire~~ ~~do either of the following:~~

(A) ~~Retires from an employer that does either: (A) completed of the following:~~

(i) ~~Completed~~ a division pursuant to Section 22156 of the Government Code prior to January 1, 2001, ~~or (B) completed.~~

(ii) ~~Completed~~ or is conducting a division pursuant to ~~that section~~ Section 22156 of the Government Code on or after January 1, 2001, and, if the member was less than 58 years of age at the time of the division, the member elected to be covered by Medicare.

(B) ~~Began receiving a disability allowance and continuously receives a disability allowance until 65 years of age or older and the member's last employer does any of the following:~~

1 (i) Completed a division pursuant to Section 22156 of the
2 Government Code prior to January 1, 2001.

3 (ii) Completed or is conducting a division pursuant to Section
4 22156 of the Government Code on or after January 1, 2001, and,
5 if the member was still actively employed and less than 58 years
6 of age at the time of the division, the member elected to be covered
7 by Medicare.

8 (iii) Completed or is conducting a division pursuant to Section
9 22156 of the Government Code on or after January 1, 2001, and,
10 if the member is no longer actively employed, the division was
11 completed prior to the time the member reached normal retirement
12 age.

13 (2) For purposes of paragraph (1), a division occurs during the
14 10-day period during which the member has the opportunity to
15 elect to be covered by Medicare pursuant to Section 22156 of the
16 Government Code.

17 (3) This subdivision ~~shall~~ does not apply to a member who
18 retires from a district, *or is receiving a disability allowance and*
19 *the member was last employed in a district*, that either ~~(A)~~ as of
20 January 1, 2001, had no members who were less than 58 years of
21 age and who were hired prior to April 1, 1986, or ~~(B)~~ was created
22 pursuant to a formation or a reorganization on or after April 1,
23 1986, and prior to January 1, 2001.

24 (e) The amount paid to the federal ~~Center~~ Centers for Medicare
25 and Medicaid Services or a successor agency pursuant to this
26 section shall include any surcharges applicable to enrollment in
27 Medicare Part A or Part B by members who retired prior to January
28 1, 2001, and who enrolled in Medicare Parts A and B after the age
29 of 65 years and prior to July 1, 2001. If the system pays the Part
30 A premium and Part B surcharges on behalf of a member and that
31 member later becomes eligible for Part A coverage without
32 payment of a premium, the system shall continue to pay any
33 applicable Part B surcharges on behalf of that member. The board
34 may require a member on whose behalf a surcharge would be paid
35 pursuant to this subdivision to authorize the system to deduct the
36 Part B premium from the member's retirement allowance as a
37 condition of having the system pay the Part A premium pursuant
38 to this section.

O